

BOYD CHURCH

VS.

Respondent

AND

Insurance Carrier

After reviewing the record and considering the arguments, the Appeals Board finds that the issue raised by respondent does not constitute an allegation that the Administrative Law Judge exceeded his jurisdiction and the Appeals Board does not, therefore, have authority to review the issue at this point in the proceedings.

The evidence establishes that after an injury in the course of employment for respondent, claimant began working for another employer. While working for this second employer, he was taken off work due to the injury with respondent. Respondent contends that it could have provided accommodated employment and respondent should not, therefore, be obligated to pay temporary total disability benefits. Respondent further argues that the physician who took claimant off work did not consider claimant's actual job duties. According to respondent, claimant's testimony that the physician took him off all work is not adequate to satisfy the requirements of K.S.A. 44-510c(b)(2).

In appeals from preliminary hearing orders, the Appeals Board has limited jurisdiction. The Board may review only allegations that the Administrative Law Judge exceeded his jurisdiction. K.S.A. 44-551. This includes allegations that the Administrative Law Judge erred in finding claimant suffered an accidental injury or finding that the injury arose out of and in the course of employment. K.S.A. 44-534a. As an administrative court with limited jurisdiction, those are the prerequisites for exercise of jurisdiction over the dispute. The Appeals Board also has authority to review findings relating to notice and written claim. K.S.A. 44-534a. Those are procedural requirements which must be satisfied to invoke jurisdiction.

The allegations in this case constitute allegations that the Administrative Law Judge committed an error in deciding an issue over which the Administrative Law Judge clearly has jurisdiction. The parties have conceded the compensability of the claim and medical benefits are being provided. The issues raised on appeal are, therefore, not ones which go to the jurisdiction of the Administrative Law Judge.

WHEREFORE, the Appeals Board finds that the Order of Administrative Law Judge Bruce E. Moore dated December 11, 1996, should, and does, remain in effect as originally entered.

IT IS SO ORDERED.

Dated this ____ day of February 1997.

BOARD MEMBER

c: James B. Zongker, Wichita, KS
Jeffrey S. Austin, Overland Park, KS
Bruce E. Moore, Administrative Law Judge
Philip S. Harness, Director